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Attorney for Plaintiffs

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

LYNART COLLINS,

Plaintiff,

v.

CIVIL NO.:

COMPLAINT FOR DAMAGES

JURY TRIAL DEMANDED

MICHAEL HEALY, INDIVIDUALLY, AND
IN HIS CAPACITY AS AN EMPLOYEE OF
THE OAKLAND POLICE DEPARTMENT,
AND THE CITY OF OAKLAND,

DEFENDANT.

1. Plaintiff, Lynart Collins, is and at all times mentioned herein was a resident of Alameda County, California. Plaintiffs are of African American origin.

2. Michael Healy is sued herein individually and in his official capacity as a sworn peace officers of the State of California, City of Oakland, for acts and conduct under color of law, as follows:

3. The City of Oakland is a municipal corporation of the State of California.

4. This action is brought pursuant to 42 U.S.C. sections 1983, et seq. and 1988, and the California Constitution, civil rights statutes and common law. Jurisdiction is based on 28 U.S.C. sections 1331 and 1343 and the aforementioned federal statutes.

5. Plaintiff further invokes the pendent jurisdiction of this court to decide claims arising under the California Constitution and California law covering the use of unreasonable force.

Plaintiff has filed administrative claims in compliance with Cal. Govt. Code §910 et seq, and such claims have been denied.

6. Plaintiff has standing to file this complaint against defendants because he was injured by Defendants' acts, violation of the California and United States Constitutions, and California tort law.

7. Under 42 U.S.C. sections 1983, et seq. and 1988, Plaintiff has standing to bring suit against defendants to recover compensation for Plaintiff's injuries resulting from Defendants' violation of Plaintiff's Constitutional rights.

8. The City of Oakland is a subdivision of the State of California and was acting pursuant to the police power authorized by Article XI, Section 7, of the California Constitution, when Oakland Police officers injured Plaintiff.

9. When the officers injured Plaintiff, they were acting as employees of the City of Oakland Police Department.

FIRST CAUSE OF ACTION

VIOLATIONS OF TITLE 42 U.S.C. SECTION 1983

10 On or about April 1, 2004, in Oakland, California, Michael Healy took aim at Plaintiff and discharged his firearm at him causing physical injuries to plaintiffs.

11. Michael seized plaintiff in excess of the Laws of the United States and applied unreasonable force.

12. Plaintiffs suffered multiple serious and permanent injuries, including gunshot wounds to his arm as a result of being shot by Michael Healy.

13. Plaintiff hereby incorporates by reference paragraphs 1 through 12, of this complaint as if fully set forth herein.

14. Defendants' above-described conduct, and particularly the unreasonable seizure of plaintiffs, violated plaintiffs' rights pursuant to 42 U.S.C. §1983 under the Fourth Amendment, applicable to the states under the Fourteenth Amendment to the United States Constitution.

15. Defendants' above-described conduct, and particularly the acts and omissions of those defendants and maltreatment of the plaintiff, violated plaintiff's rights under the Fourth and Fourteenth Amendments, applicable to the states under the Fourteenth Amendments to the United States Constitution.

16. Defendants' above-described conduct, and particularly the acts and omissions of those defendants involved in the unlawful seizure of plaintiffs, constitutes a policy and custom of certain employees of the City of Oakland who have a practice of applying unreasonable force and particularly to those of African American descent.

WHEREFORE, Plaintiff prays for judgment as hereinafter set forth.

SECOND CAUSE OF ACTION

VIOLATIONS OF CALIFORNIA CIVIL CODE SECTIONS 51.1-51.7

17. Plaintiff hereby incorporates by reference paragraphs 1 through 16, of this complaint as if fully set forth herein.

18. Defendants' above-described conduct, and particularly the acts and omissions of those defendants and maltreatment of the plaintiff, violated plaintiff's rights under Civil Code Section 51.1-51.7, by using unreasonable and unlawful force against him on a discriminatory basis.

WHEREFORE, Plaintiff prays for judgment as hereinafter set forth.

THIRD CAUSE OF ACTION

ASSAULT AND BATTERY

19. Plaintiff hereby incorporates by reference paragraphs 1 through 18, of this complaint as if fully set forth herein.

20. The above described conduct of defendants, constituted assault and battery on Plaintiff. Defendants caused physical contact to be inflicted on Plaintiff without plaintiff's consent.

21. As a direct and proximate result of said assault and battery, Plaintiff suffered general and special damages in an amount to be proven at trial.

1 WHEREFORE, Plaintiff prays for judgment as hereinafter set forth.

2 **FOURTH CAUSE OF ACTION**
3 **INFLECTION OF EMOTIONAL DISTRESS**

4 22. Plaintiff hereby incorporates by reference paragraphs 1 through 21, of this complaint
5 as if fully set forth herein.

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7 23. Defendants' above-described conduct was extreme, unreasonable and outrageous. By
8 engaging in such conduct, defendants intentionally ignored or recklessly disregarded the
9 foreseeable risk that Plaintiff would suffer extreme emotional distress as a result of defendants'
10 conduct.

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12 24. As a proximate result of said conduct, Plaintiff suffered severe emotional distress,
13 pain and suffering, fear, anxiety, embarrassment, discomfort and humiliation, all to their general
14 damage in an amount to be proven, and incurred special damages in an amount to be proven at
15 trial.

16
17 WHEREFORE, Plaintiff prays for judgment as hereinafter set forth.

18 **PUNITIVE DAMAGES ALLEGATION**

19 25. Plaintiff hereby incorporates by reference paragraphs 1 through 24, of this complaint
20 as if fully set forth herein.

21 26. Defendants' above-described engaged in conduct that was malicious, oppression, and
22 in reckless disregard of plaintiff's Constitutional rights.

23 WHEREFORE, Plaintiff prays for judgment as hereinafter set forth.

24 **DEMAND FOR JURY TRIAL**

25 Plaintiff hereby demands a jury trial for each cause of action for which she is entitled to a
26 jury trial.

27 WHEREFORE, Plaintiff respectfully prays that this Court grant the following relief:

28 A. An award of compensatory and general damages against defendants against the
defendants, jointly and severally, for in the amount of \$500,000;

1 B. An award of exemplary and punitive damages against all defendants sued in their
2 individual capacities in the amount of \$500,000;

3 C. An award of plaintiff's costs, expenses and reasonable attorney's fees pursuant to 42
4 U.S.C. §1988, Civil Code Section 51.7, and Cal. Code of Civil Procedure §1021.5;

5 D. Trial By Jury; and such other and further relief as the Court may deem just
6 and proper.

7 Dated: _____

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10 By: WAYNE JOHNSON
11 Attorney for Plaintiff
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